



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 656 and 657 (as introduced 12-10-15)

Sponsor: Senator Rick Jones

Committee: Banking and Financial Institutions

Date Completed: 2-1-16

CONTENT

Senate Bill 656 would amend Article 9 of the Occupational Code to do the following:

- **Revise the definition of "collection agency".**
- **Exclude from the definition of "collection agency" a forwarding agency that forwards a claim, collection, or repossession to a collection agency.**
- **Specify various activities of a claim forwarder or remarketer that would not be considered "collecting or attempting to collect a claim", "repossessing or attempting to repossess a thing of value", or "collection activities".**

Senate Bill 657 would amend Public Act 70 of 1981, which regulates the collection practices of various types of businesses, to do the following:

- **Revise the definition of "collection agency".**
- **Specify various activities of a claim forwarder or remarketer that would not be considered "collecting or attempting to collect a claim", "repossessing or attempting to repossess a thing of value", or "collection activities".**

Each bill would take effect 90 days after its enactment.

Senate Bill 656

Article 9 of the Code governs the licensure and business of a collection agency. "Collection agency" means a person that is directly or indirectly engaged in collecting or attempting to collect a claim owed or due or asserted to be owed or due another, or repossessing or attempting to repossess a thing of value owed or due or asserted to be owed or due another arising out of an express or implied agreement. The bill would remove the phrase "or indirectly" from the definition.

A collection agency includes a person representing himself or herself as a collection or repossession agency, or a person performing the activities of a collection agency, on behalf of another that are regulated by Code. The bill instead specifies that "collection agency" would include an individual who, in the course of collecting, repossessing, or attempting to collect or repossess, represents himself or herself as a collection or repossession agency, or a person that performs collection activities that are regulated under Article 9 on behalf of another.

A collection agency does not include a person whose collection activities are confined and are directly related to the operation of a business other than a collection agency, such as a State or nationally chartered bank, or trust company, that collects its own claims. Under the bill, "collection agency" also would not include a forwarding agency that, acting on behalf of a

creditor or lender, forwards a claim, collection, or repossession to a collection agency licensed under Article 9.

The bill specifies that, as used in Article 9, "collecting or attempting to collect a claim", "repossessing or attempting to repossess a thing of value", and "collection activities" would not include any of the following activities of a claim forwarder or remarketer under a contract with a creditor:

- Forwarding repossession assignments on behalf of the creditor to a licensed collection agency for repossessing or attempting to repossess a thing of value owed or alleged to be owed on a claim.
- Pursuant to the authorization of a creditor and on its behalf, providing or procuring the services of an auction or other remarketer in connection with the disposition or preparation for disposition of a thing of value that was previously repossessed by a creditor or another person on the creditor's behalf.
- Communicating with a creditor or the collection agency regarding the performance of any of the activities described above.

Senate Bill 657

Public Act 70 of 1981 governs the collection practices of a "regulated person". "Regulated person" means a person whose collection activities are confined and are directly related to the operation of a business other than that of a collection agency, including, for example, a State or federally chartered bank, or trust company, that collects its own claim.

"Collection agency" means a person that is directly engaged or indirectly engaged in soliciting a claim for collection or collecting or attempting to collect a claim owed or due or asserted to be owed or due another, or repossessing or attempting to repossess a thing of value owed or due or asserted to be owed or due another arising out of an express or implied agreement. The bill would remove the phrases "or indirectly" and "soliciting a claim for collection" from the definition.

Also, under the bill, the phrases "collecting or attempting to collect a claim", "repossessing or attempting to repossess a thing of value", and "collection activities" would not include any of the activities of a claim forwarder or remarketer that would be excluded from those phrases under Senate Bill 656.

MCL 339.901 (S.B. 656)
445.251 (S.B. 657)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.